

## U.S. Fish and Wildlife Serv., Interior

## § 18.22

may subject me to the criminal penalties of 18 U.S.C. 1001.

(b) Either one of two exhibits shall be attached to such affidavit, and will contain either:

(1) Records or other available evidence showing that the product consists of or is composed in whole or in part of marine mammals taken prior to December 21, 1972. Such records or other evidentiary material must include information on how, when, where, and by whom the animals were taken, what processing has taken place since taking, and the date and location of such processing; or

(2) A statement from a government agency of the country of origin exercising jurisdiction over marine mammals that any and all such mammals from which the products sought to be imported were derived were taken prior to December 21, 1972.

(c) Service agents, or Customs officers, may refuse to clear marine mammals or marine mammal products for importation into the United States, pursuant to §14.53 of this subchapter, until the importer can demonstrate, by production of the affidavit referred in above or otherwise, that section 102(e) of the Act applies to all affected items.

(d) This section has no application to any marine mammal or marine mammal product intended to be imported pursuant to §18.21, §18.31 or §18.32 of this part.

[39 FR 7262, Feb. 25, 1974, as amended at 51 FR 17981, May 16, 1986]

### Subpart C—General Exceptions

#### § 18.21 Actions permitted by international treaty, convention, or agreement.

The Act and these regulations shall not apply to the extent that they are inconsistent with the provisions of any international treaty, convention or agreement, or any statute implementing the same, relating to the taking or importation of marine mammals or marine mammal products, which was existent and in force prior to December 21, 1972, and to which the United States was a party. Specifically, the regulations in subpart B of this part and the provisions of the Act shall not apply to activities carried out

pursuant to the Interim Convention on the Conservation of North Pacific Fur Seals signed in Washington on February 9, 1957, and the Fur Seal Act of 1966, 16 U.S.C. 1151-1187, as, in each case, from time to time amended.

#### § 18.22 Taking by Federal, State or local government officials.

(a) A Federal, State or local government official or employee may take a marine mammal in the course of his duties as an official or employee and no permit shall be required, if such taking:

(1) Is accomplished in a humane manner;

(2) Is for the protection or welfare of such mammal or from the protection of the public health or welfare; and

(3) Includes steps designed to insure return of such mammal, if not killed in the course of such taking, to its natural habitat. In addition, any such official or employee may, incidental to such taking, possess and transport, but not sell or offer for sale, such mammal and use any port, harbor or other place under the jurisdiction of the United States. All steps reasonably practicable under the circumstances shall be taken by any such employee or official to prevent injury or death to the marine mammal as the result of such taking.

(b) Each taking permitted under this section should be included in a written report, to be submitted to the Director every six months, beginning December 31, 1973. Unless otherwise permitted by the Director, the report shall contain a description of:

(1) The animal involved;

(2) The circumstances requiring the taking;

(3) The method of taking;

(4) The name and official position of the State official or employee involved;

(5) The disposition of the animal, including in cases where the animal has been retained in captivity, a description of the place and means of confinement and the measures taken for its maintenance and care; and

(6) Such other information as the Director may require.

The reports shall be mailed to the Director, U.S. Fish and Wildlife Service,

## § 18.23

## 50 CFR Ch. I (10–1–03 Edition)

U.S. Department of the Interior, Washington, DC 20240.

[39 FR 7262, Feb. 25, 1974, as amended at 51 FR 17981, May 16, 1986]

### § 18.23 Native exemptions.

(a) *Taking.* Except as otherwise provided in part 403 of this title, any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean may take any marine mammal without a permit, subject to the restrictions contained in this section, if such taking is:

(1) For subsistence purposes, or

(2) For purposes of creating and selling authentic native articles of handicraft and clothing, and

(3) In each case, not accomplished in a wasteful manner.

(b) *Restrictions.* (1) “Except for a transfer to a duly authorized representative of the Regional Director of the U.S. Fish and Wildlife Service for scientific research purposes, no marine mammal taken for subsistence may be sold or otherwise transferred to any person other than an Alaskan Native or delivered, carried, transported, or shipped in interstate or foreign commerce, unless:

(i) It is being sent by an Alaskan Native directly or through a registered agent to a tannery registered under paragraph (c) of this section for the purpose of processing, and will be returned directly or through a registered agent to the Alaskan Native; or

(ii) It is sold or transferred to a registered agent in Alaska for resale or transfer to an Alaskan Native; or

(iii) It is an edible portion and it is sold in an Alaskan Native village or town.

(2) “Except for a transfer to a duly authorized representative of the Regional Director of the U.S. Fish and Wildlife Service for scientific research purposes, no marine mammal taken for purposes of creating and selling authentic Native articles of handicraft and clothing may be sold or otherwise transferred to any person other than an Indian, Aleut or Eskimo, or delivered, carried, transported or shipped in interstate or foreign commerce, unless:

(i) It is being sent by an Indian, Aleut or Eskimo directly or through a

registered agent to a tannery registered under paragraph (c) of this section for the purpose of processing, and will be returned directly or through a registered agent to the Indian, Aleut or Eskimo; or

(ii) It is sold or transferred to a registered agent for resale or transfer to an Indian, Aleut, or Eskimo; or

(iii) It has been first transformed into an authentic Native article of handicraft or clothing; or

(iv) It is an edible portion and it is sold (A) in an Alaskan Native village or town or (B) to an Alaskan Native for his consumption.

(c) The restriction in paragraph (b) shall not apply to parts or products of the Pacific walrus (*Odobenus rosmarus*) to the extent that the waiver of the moratorium and the approved State/Federal regulations relating to the taking and importation of walrus permits the delivery, sale, transportation or shipment of parts or products of the Pacific walrus in interstate or foreign commerce.

(d) Any tannery, or person who wishes to act as an agent, within the jurisdiction of the United States may apply to the Director for registration as a tannery or an agent which may possess and process marine mammal products for Indians, Aleuts, or Eskimos. The application shall include the following information:

(1) The name and address of the applicant;

(2) A description of the applicant's procedures for receiving, storing, processing, and shipping materials;

(3) A proposal for a system of book-keeping and/or inventory segregation by which the applicant could maintain accurate records of marine mammals received from Indians, Aleuts, or Eskimos, pursuant to this section;

(4) Such other information as the Director may request;

(5) A certification in the following language:

I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining the benefit of an exception under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and regulations promulgated thereunder, and that